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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,339	07/10/2000	Nobuyoshi Morimoto	5596-00300	9759

7590 01/13/2004

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EXAMINER

ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/613,339

Applicant(s)

Nobuyoshi, Morimoto

Examiner

Pierre E. Elisca

Art Unit

3621



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/6/2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 3621

DETAILED ACTION

1. This Office action is in response to Applicant's Response, filed on 10/06/2003.
2. Claims 1-44 are presented for examination.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-44 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Andrews (U.S. Pat. No. 6,285,986) Treyz et al. (U.S. Pat. No. 6,587,835).

As per claims 1, 9-13, 29, 30, 35 and 37-44 Andrews substantially discloses a method of interactive, automated registration, negotiation and marketing for combining products and services from one or more vendors together to be sold as a unit allows vendors of products and services to post information about their (which is seen to read as Applicant's claimed invention wherein it is stated that a method for negotiating improved terms for a product or service), comprising: in response to said detecting, making an offer to said purchaser to accept or reject a contract for negotiating said improved terms within a specified time (see., abstract, col 8, lines 45-67, col 2, lines 37-48);

Art Unit: 3621

if said purchaser accepts said offer:

conducting a search for said improved terms within said specified time; receiving said improved terms within said specified time; and executing said contract (see., abstract, col 8, lines 45-67, col 2, lines 37-48). It is to be noted that Andrews fails to explicitly disclose a commitment to purchase with associated terms for said product. However, Treyz discloses a system in which users make financial commitment toward purchases (see., abstract, col 1, lines 49-52, col 11, lines 63-67, col 12, lines 1-10). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teaching of Andrews by including the limitation detailed above as taught by Treyz because this would provide commitment toward purchases prior to completing purchase transactions.

As per claims 2, 8, 31 and 36 Andrews discloses the claimed method wherein said detecting comprises detecting said purchaser entering a credit card number or a pre-paid account number or a gift certificate number (see., col 2, lines 37-48, please note that Andrews discloses a method of payment and shipping information, it is inherent to realize that the form of payment information can also include payment by credit card or gift certificate or account number).

As per claims 3-7, 32, 33 and 34, Andrews discloses the claimed method wherein said detecting said purchaser viewing a particular web page (see., col 1, lines 65-67, col 2, lines 1-14).

Art Unit: 3621

As per claims 14, 20 and 22-28 Andrews discloses a system of interactive, automated registration, negotiation and marketing for combining products and services from one or more vendors together to be sold as a unit allows vendors of products and services to post information about their (which is seen to read as Applicant's claimed invention wherein it is stated that a method for negotiating improved terms for a product or service), comprising:

detecting an issuance of a commitment to purchase with associated terms for said product or service being purchased by a purchaser using an Internet web site (see., abstract, col 1, lines 65-67, col 2, lines 1-14);

in response to receiving said notification, making an offer to said purchaser to accept or reject a contract for negotiating said improved terms within a specified time (see., abstract, col 8, lines 45-67, col 2, lines 37-48);

if said purchaser accepts said offer:

conduct a search for said improved terms within said specified time; receive said improved terms within said specified time; and execute said contract (see., abstract, col 8, lines 45-67, col 2, lines 37-48).

As per claims 15 and 21 Andrews discloses the claimed limitations wherein said detecting comprises detecting said purchaser entering a credit card number or a pre-paid account number or a gift certificate number (see., col 2, lines 37-48, please note that Andrews discloses a method of

Art Unit: 3621

payment and shipping information, it is inherent to realize that the form of payment information can also include payment by credit card or gift certificate or account number).

As per claims 16-19 Andrews discloses the claimed limitations wherein said detecting said purchaser viewing a particular web page (see., col 1, lines 65-67, col 2, lines 1-14).

REMARKS

5. In response to Applicant's arguments, Applicant argues that the cited art (Andrews) fails to anticipate, teach, or suggest:

a. "Making an offer to said purchaser to accept or reject a contract for negotiating said improved terms within a specified time". Based upon foregoing rejection indicated above, it is believed that Andrews discloses this limitation in the abstract, col 8, lines 45-67, col 2, lines 37-48.

Conclusion

6. The prior art made of record and relied upon is considered to applicant's disclosure.

Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. The examiner can normally be reached on Monday, Tuesday, and Wednesday from 5:30AM. to 6:00PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768.

Application/Control Number: 09/613,339

Page 6

Art Unit: 3621

Any response to this action should be mailed to:

Commissioner of patents and Trademarks

Washington, D.C. 20231

The Official fax number for TC 3600 is:

(703) 305 7687



Pierre Eddy Elisca

Primary Examiner

January 07, 2004